

Panaji, 22nd March, 1984 (Chaitra 2, 1906)

SERIES I No. 51

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Finance Department (Revenue and Control)

Notification

5-2-78/Fin(R&C)

In exercise of the powers conferred by sub-section (5) of section 8 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), the Lieutenant Governor of Goa, Daman and Diu hereby amends the Government Notification No. 5-2-78/Fin(R&C), dated 11-3-1980 published in the Official Gazette No. 51, Series I, dated 20-3-80 and last amended vide Government Notification of even number dated 7th April, 1983 published in the Official Gazette No. 3, Series I, dated 21st April, 1983 (hereinafter referred to as "the said Notification"), as follows, namely:—

"In the said Notification, for the words and figures "four years" and "28-3-1984", the words and figures "seven years" and "28-3-1987" shall be substituted, respectively".

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Finance Exp.).

Panaji, 1st March, 1984.

Law Department (Legal Advice)

Drafting Section

Notification

LD/1/9/84-(D)

The Criminal Law (Amendment) Act, 1983 (43 of 1983) and the Criminal Law (Second Amendment) Act, 1983 (46 of 1983) which have been assented to by President of India on 25th December, 1983 and published in the Gazette of India, Extraordinary, Part II, Section I dated 26th December, 1983, are hereby republished for the general information of the public.

B. S. Subbanna, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 1st March, 1984.

The Criminal Law (Amendment) Act, 1983

AN

ACT

further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872.

Be it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

1. **Short title.**— This Act may be called the Criminal Law (Amendment) Act, 1983.

2. **Insertion of new section 228A.**— In the Indian Penal Code (hereinafter referred to as the Penal Code), after section 228, the following section shall be inserted, namely:—

228A. Disclosure of Identity of the victim of certain offences, etc.— (1) Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an offence under section 376, section 376A, section 376B, section 376C or section 376D is alleged or found to have been committed (hereafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

(2) Nothing in sub-section (1) extends to any printing or publication of the name or any matter which may make known the identity of the victim if such printing or publication is—

(a) by or under the order in writing of the officer-in-charge of the police station or the police officer making the investigation into such offence acting in good faith for the purposes of such investigation; or

(b) by, or with the authorisation in writing of, the victim; or

(c) where the victim is dead or minor or of unsound mind, by, or with the authorisation in writing of, the next of kin of the victim:

Provided that no such authorisation shall be given by the next of kin to anybody other than

the chairman or the secretary, by whatever name called, of any recognised welfare institution or organisation.

Explanation.—For the purposes of this sub-section, "recognised welfare institution or organisation" means a social welfare institution or organisation recognised in this behalf by the Central or State Government.

(3) Whoever prints or publishes any matter in relation to any proceeding before a court with respect to an offence referred to in sub-section (1) without the previous permission of such court shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

Explanation.—The printing or publication of the judgment of any High Court or the Supreme Court does not amount to an offence within the meaning of this section.

3. Substitution of new sections for sections 375 and 376.—In the Penal Code, for the heading "Of rape" occurring immediately before section 375 and for sections 375 and 376, the following heading and sections shall be substituted, namely:—

'Sexual offences

375. Rape.—A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly.—With or without her consent, when she is under sixteen years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape.

376. Punishment for rape.—(1) Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or

for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which case, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

(2) Whoever, —

(a) being a police officer commits rape —

(i) within the limits of the police station to which he is appointed; or

(ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or

(iii) on a woman in his custody or in the custody of a police officer subordinate to him; or

(b) being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him; or

(c) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution takes advantage of his official position and commits rape on any inmate of such jail, remand home, place or institution; or

(d) being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital; or

(e) commits rape on a woman knowing her to be pregnant;

or

(f) commits rape on a woman when she is under twelve years of age; or

(g) commits gang rape,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years.

Explanation 1.—Where a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this sub-section.

Explanation 2.—"women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widows' home or by any other name, which is established and maintained for the reception and care of women or children.

Explanation 3. — “hospital” means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation.

376A. Intercourse by a man with his wife during separation. — Whoever has sexual intercourse with his own wife, who is living separately from him under a decree of separation or under any custom or usage without her consent shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

376B. Intercourse by public servant with woman in his custody. — Whoever, being a public servant, takes advantage of his official position and induces or seduces, any woman, who is in his custody as such public servant or in the custody of a public servant subordinate to him, to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

376C. Intercourse by superintendent of jail, remand home, etc. — Whoever, being the superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women’s or children’s institution takes advantage of his official position and induces or seduces any female inmate of such jail, remand home, place or institution to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

Explanation 1. — “superintendent” in relation to a jail, remand home or other place of custody or a women’s or children’s institution includes a person holding any other office in such jail, remand home, place or institution by virtue of which he can exercise any authority or control over its inmates.

Explanation 2. — The expression “women’s or children’s institution” shall have the same meaning

as in *Explanation 2* to sub-section (2) of section 376.

376D. Intercourse by any member of the management or staff of a hospital with any woman in that hospital. — Whoever, being on the management of a hospital or being on the staff of a hospital takes advantage of his position and has sexual intercourse with any woman in that hospital, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine.

Explanation. — The expression “hospital” shall have the same meaning as in *Explanation 3* to sub-section (2) of section 376.

4. Amendment of section 327. — In the Code of Criminal Procedure, 1973 (hereinafter referred to as the Criminal Procedure Code), section 327 shall be renumbered as sub-section (1) of that section and after it, as so renumbered, the following sub-sections shall be inserted, namely: — 2 of 1974.

“(2) Notwithstanding anything contained in sub-section (1), the inquiry into and trial of rape or an offence under section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code shall be conducted *in camera*.” 45 of 1960.

Provided that the presiding judge may, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the room or building used by the court.

(3) Where any proceedings are held under sub-section (2), it shall not be lawful for any person to print or publish any matter in relation to any such proceedings, except with the previous permission of the court.”

5. Amendment of the First Schedule.— In the First Schedule to the Criminal Procedure Code, under the heading “I.—Offences under the Indian Penal Code”, —

(a) after the entries relating to section 228, the following entries shall be inserted, namely: —

1	2	3	4	5	6
“228A	Disclosure of identity of the victim of certain offences, etc.	Imprisonment for two years and fine.	Cognizable	Bailable	Any Magistrate.
	Printing or publication of a proceeding without prior permission of court.	Ditto	Ditto	Ditto	Ditto.”;

(b) for the entries relating to section 376, the following entries shall be substituted, namely: —

1	2	3	4	5	6
“376	Rape	Imprisonment for life or imprisonment for ten years and fine.	Cognizable	Non-bailable	Court of Session.

	Intercourse by a man with his wife not being under twelve years of age.	Imprisonment for two years or fine or both.	Non-cognizable	Bailable	Ditto
376A	Intercourse by a man with his wife during separation.	Imprisonment for two years and fine.	Ditto	Ditto	Ditto
376B	Intercourse by public servant with woman in his custody.	Imprisonment for five years and fine.	Cognizable (but no arrest shall be made without a warrant or without an order of a Magistrate).	Ditto	Ditto
376C	Intercourse by superintendent of jail, remand home, etc.	Ditto	Ditto	Ditto	Ditto
376D	Intercourse by manager, etc., of a hospital with any woman in that hospital.	Ditto	Ditto	Ditto	Ditto."

6. Insertion of new section 114A. — After section 114 of the Indian Evidence Act, 1872, the following section shall be inserted, namely: — 1 of 1872.

"114A. Presumption as to absence of consent in certain prosecutions for rape. — In a prosecution for rape under clause (a) or clause (b) or clause (c) or clause (d) or clause (e) or clause (g) of sub-section (2) of section 376 of the Indian Penal Code, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and she states in her evidence before the Court that she did not consent, the Court shall presume that she did not consent." 45 of 1960.

The Criminal Law (Second Amendment) Act, 1983

AN

ACT

further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872.

Be it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows: —

1. Short title. — This Act may be called the Criminal Law (Second Amendment) Act, 1983.

2. Amendment of Act 45 of 1860. — In the Indian Penal Code, after Chapter XX, the following Chapter shall be inserted, namely: —

CHAPTER XXA

Of Cruelty by Husband or Relatives of Husband

498A. Husband or relative of husband of a woman subjecting her to cruelty. — Whoever,

being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation. — For the purposes of this section, "cruelty" means —

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

3. Amendment of section 174. — In the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code of Criminal Procedure), in section 174, in sub-section (3), for the words "When there is any doubt regarding the cause of death, or when for any other reason the police officer considers it expedient so to do, he shall", the following shall be substituted, namely: — 2 of 1974.

"When —

(i) the case involves suicide by a woman within seven years of her marriage; or

(ii) the case relates to the death of a woman within seven years of her marriage in any circumstances raising a reasonable suspicion that some other person committed an offence in relation to such woman; or

(iii) the case relates to the death of a woman within seven years of her marriage and any

relative of the woman has made a request in this behalf; or

(iv) there is any doubt regarding the cause of death; or

(v) the police officer for any other reason considers it expedient so to do. he shall".

4. Amendment of section 176. — In section 176 of the Code of Criminal Procedure, in sub-section (1), for the words "When any person dies while in the custody of the police", the words, brackets and figures "When any person dies while in the custody of the police or when the case is of the nature referred to in clause (i) or clause (ii) of sub-section (3) of section 174" shall be substituted.

5. Insertion of new section 198A. — In the Code of Criminal Procedure, after section 198, the following section shall be inserted, namely: —

"198A. Prosecution of offences under section 498A of the Indian Penal Code. — No Court shall take cognizance of an offence punishable under section 498A of the Indian Penal Code except upon a police report of facts which constitute such offence or upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or, with the leave of the Court by any other person related to her by blood, marriage or adoption."

6. Amendment of the First Schedule. — In the Code of Criminal Procedure, in the First Schedule, after the entries relating to section 498, the following entries shall be inserted, namely: —

Section	Offence	Punishment	Cognizable or non-cognizable	Bailable or non-bailable	By what Court triable
1	2	3	4	5	6

"CHAPTER XXA — Of cruelty by husband or relatives of husband

498A	Punishment for subjecting a married woman to cruelty.	Imprisonment for three years and fine.	Cognizable if information relating to the commission of the offence is given to an officer in charge of a police station by the person aggrieved by the offence or by any person related to her by blood, marriage or adoption or if there is no such relative, by any public servant belonging to such class or category as may be notified by the State Government in this behalf.	Non-bailable	Magistrate of the first class."
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7. Amendment of Act 1 of 1872. — In the Indian Evidence Act, 1872, after section 113, the following section shall be inserted, namely: —

'113A. Presumption as to abetment of suicide by a married woman. — When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her

marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanation. — For the purposes of this section, "cruelty" shall have the same meaning as in section 498A of the Indian Penal Code.'

45 of 1860.

Government Press

Notice

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